AN APPENDIX TO THE QUERIES UPON THE 45th of Hen. VIII. Cap. 21.

CONTAINING

Some further Considerations in Behalf of the late Illegally Ejected OFFICERS of the ROYAL HOSPITAL of St. *THOMAS SOUTHWARK*; chiefly grounded upon certain Passages in the GRANT of KING *EDWARD* VI, to the MAYOR and COMMONALTY of the CITY of *LONDON*.

WHEREIN

The ROYAL PREROGATIVE, as to the Visitation and Regulation of that and other HOSPITALS, is Vindicated and Asserted; And the late Regulations in the time of KING *CHARLES* II. are more particularly consider'd and defended.

Assentatio vicina est imbecillitati: veritas divinum quiddam & omnipotens habet.

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The PROVISO of the 25 *H.* 8. *c.* 21.

That it shall not be lawful for the Archbishop of Canterbury, or any other Person or Persons, to visit or ver any Monasteries, &c. Hospitals, Houses, or other Places Religious, which be or were exempt before the making of this Act; but that Redress, Visitation and Confirmation shall be had by the King's Highness by Commission under the Broad Seal, to be directed to such Persons as shall be appointed requisite for the same.

An APPENDIX TO THE QUERIES.

1. THE Orders by which the ſeveral late ejected Officers of the Royal Hoſpital of St. *Thomas Southwark* were admitted into their reſpective Offices and Employments in the time of King *Charles* II. run thus; *At a meeting of the Commiſſioners appointed by His Majeſties Letters Patents, for Government of the ſeveral Hoſpitals of this City*——as will appear by the Book of Entries, where the reſpective Orders are ſet down in the Town-Clerk's Office at *Guild-Hall*, which ſeems to be a clear Argument, that though the Authority were the ſame in both Caſes, (whether we conſider the adminiſtration of the City it ſelf, whoſe Charter was now actually voided, or the Government of the ſeveral Hoſpitals belonging to it) that is to ſay, the King's, and though the Perſons acting under it and by virtue of it were the ſame too, that is to ſay, the Lord Mayor and Court of Aldermen for the time being; and ſuch other Lords and Gentlemen of the long Robe, as were named in the Commiſſion: yet the ſaid Commiſſioners did not look upon the root and foundation of that Authority under which they acted to be in both Caſes the ſame, as in very truth it was not, for one (the avoidance of the City Charter, which was the foundation of their Power in the adminiſtration of the City by Commiſſion) depended merely upon the King's Prerogative, which it hath been matter of diſpute, whether it would extend ſo far or no; the other, (the Viſitation and Government of Hoſpitals belonging to the City by Commiſſioners under the Great Seal) depended upon a clear Act of Parliament, 25 *H.* 8. *c.* 21. by which the King was empowered to viſit the ſaid Places, and to make ſuch Alterations and Regulations therein, as ſhould be found requiſite from time to time, whether the Charter of the City were voided or not, a Caſe which the makers of that Act did not think of, and beſides the Clauſe by which the K. is veſted with this power, had no reſpect to the City or any other civil Incorporation whatſoever; neither were any of the Royal Hoſpitals, not ſo much as that of St. *Bartholomew's*, which is the ancienteſt Foundation of the four, annexed and incorporated into the City at that time.

So that this was plainly the reaſon of that difference of ſtile, when they made Orders for the Government of the ſeveral Hoſpitals, and when they made others

for the Administration of the City, that they look'd upon them as two distinct Commissions; however they might both of them possibly be contained in the same Instrument, and both of them authoriz'd by the same individual stamp of the Broad Seal, and Commissions they were, that were derived from as different Fountains, as the common and the statute Law (for the K. hath no Prerogative but from the Former of these) and no Man will deny, but there is a great and fundamental difference between these two.

What are the true bounds of the Prerogative, or of the ancient and immemorial Rights of the Crown, the Lawyers themselves are not agreed, but the statute Law is plain, its bounds are certain, and its Interpretation for the most part very obvious and easie, and whatsoever right is given to the King by the Statute Law of this Realm, that is to say, to the King, his Heirs and Successors for ever, without any clause of Restriction or Limitation, any period assign'd, any time, when it shall cease, determined, that Right is always indisputable and always the same; nonusance or length of time will not bar it, because *nullum tempus occurrit Regi*; neither can he give away that Right to the prejudice of his Successors, any otherwise than by such another Parliamentary Sanction, as that which bestowed it upon himself or his Predecessors, especially if it be a Right of such a nature that it transfers a Duty and an Obligation upon him for the good of his People, or of any part or parcel of them, which we humbly presume to be our very Case, and that it doth sufficiently justifie the Visitation of Hospitals in the time of K. *Charles* II. and makes all those Acts and Regulations valid, which were ordained and constituted by him, and by the Commission still acting under the late King *James* during the avoidance of the City Charter, so far as all or any of those Acts were materially legal and allowable in themselves.

2. The King even then when the Charter was standing and in full force, did of course visit by his Auditor of Accounts at every Audit or stating of the Accounts, or of the Receipts and Disbursements of the said House, and till he had so done and approved in the Person of his Auditor, the Account exhibited to him by the Treasurer of the said House, the said Treasurer's Accounts were never passed, which is as clear and indisputable an Act of Visitation, as any other Act or thing whatsoever.

3. In the Letters Patents of K. *Edward* VI. dated at *Westminster* upon the 12*th* Day of *August*, and in the 5*th* year of the Reign of the said King, there are several things that are very well worth Observation, *viz.*

1. The King gives and grants the Lands, Tenements, *&c.* belonging to the Hospital of St. *Thomas Southwark*, together with the Site of the said Hospital and the Parsonage or Rectory and Parish Church thereto formerly belonging and adjoining, fully, freely, and wholly, and in as ample manner and form, as any Master of the said late Hospital, or any other or others, possessed or stood seized of, had, held or enjoyed the same in the time of *H.* 8. or before it.

Now in former times, it is certain, that notwithstanding the said full, free and whole Possession of the Premises by any Master or others, yet the said Master and his Collegues or Partners in the said Possession were still subject to the Visitation of the Bishop of *Rome*, or such as he should delegate and appoint; and thus much

much is certain from the nature of things themſelves, that wherever there is a rightful Power of Viſitation, there muſt alſo be a Power of Redreſs and Puniſhment, and in ſome caſes of Expulſion and *Forfeiture* themſelves, otherwiſe this power of Viſitation were in vain.

It follows therefore unavoidably from both of theſe things taken together, if the Power and Right of the Lord Mayor and Commonalty of the City of *London* over this Hoſpital and its Poſſeſſions, be but as free and no more, (as no more is given them by this Grant of *E.* 6.) as full, whole and ample, as that of any Maſter of the ſaid Hoſpital or others formerly was, and if the *Pope*'s power in theſe as well as other matters, being aboliſhed, is, by Act of Parliament, devolved upon the King, that the King hath all that Power and Right of Viſitation, as to this particular Caſe over the Mayor and Commonalty of the City of *London*, by a very plain Inference from the words of K. *Edward*'s Grant, that the *Pope* had formerly over the Maſter of this Hoſpital or others, or rather indeed a much greater, becauſe the *Pope*'s Power was in its nature foreign, in its original and root uſurped, and was attended with many and great Inconveniences to the King and Kingdom, whereas the King's Power is natural to gover[illegible] Perſons and Eſtates of Men within his Realm, it flows from the very nature and eſſential Conſtitution of all Governments whatſoever, and without it no Government can either be ſo ſtrong or ſo laſting as it deſigns to be.

But not to inſiſt upon Inferences, though ſo plain, ſo concluſive that nothing can be more, there are theſe very words in the Grant of the ſaid King *Edward*.

And We will and declare by theſe Preſents, that it ſhall be lawful for Us, Our Heirs and Succeſſors, from time to time as often as it ſhall ſeem fit and expedient, to aſſign Our Commiſſioners to viſit the ſaid Hoſpital and Houſe of the Poor, and to do and execute all and ſingular ſuch other things whatſoever, as We, Our Heirs and Succeſſors ſhall there command to be done.

From which we may obſerve theſe four things.

Firſt, That this power reſerved to the King was ſtrictly and properly legal in it ſelf, being founded upon an expreſs Proviſion in an Act of Parl. 25 *H.* 8. *c.* 21.

Secondly, That bating the Authority of the Act of Parliament, this is a Reſervation ſo reaſonable and juſt, that it cannot be denied to any private Donor, to appoint other Viſitors, as there ſhall be occaſion, to viſit the ordinary Feoffees entruſted by him, and to ſee from time to time that they be diligent and faithful in the diſcharge of their Duty.

Thirdly, That this is a plain and categorical Vindication of the Regulation made in this and other Houſes in the time of K. *Charles* II. ſuppoſing that they have alſo this Clauſe of Reſervation; for then he was ſo far from ſtraining the Prerogative, and from having acted after an illegal arbitrary manner, as ſome that are very illegal and arbitrary themſelves, will needs have him to have done, that it is plain he had an Act of Parliament and a Royal Grant on his ſide, and both of them implied ſuch a Truſt committed to him, as it concern'd him in Conſcience to look after.

Fourthly and laſtly, The Regulations made by that wiſe and good Prince in purſuance of this double Truſt committed to him, cannot be evacuated by the

ordinary

ordinary Truſtees, (and much leſs by no power at all, of which more ſhall be ſaid in its due place) for then this Reſervation of K. *Edward*, this power given by the Act of Parliament were both of them abſurd, monſtrous, ridiculous and vain; and this concerns as well ſome that call themſelves Governors, as others that pretend to be Officers of this Houſe.

In the third place K. *Edward* in the ſaid Grant, appropriates, unites, knits and incorporates to the Mayor, Commonalty, and Citizens of the City of *London* and their Succeſſors, *&c.* the Parſonage and Church of St. *Thomas Southwark*.

From whence we may obſerve,

1. Bating that the word *Appropriation* is a term particularly reſpecting Rectories, or Parſonages, as is here expreſſed, that, as to the true Propriety, which the Mayor and Commonalty of the ſaid City were by this Grant to have in either of them, the Hoſpital and its Revenues and Demeſns were as much knit, united and incorporated to the ſaid Mayor, *&c.* as the Pariſh Church, or the Glebe, Tithe, Obventions, Oblations, *&c.* thereunto belonging.

2. That notwithſtanding this knitting, uniting and incorporating, which are words expreſſive of the [redacted] Union, yet the King did ſtill reſerve to himſelf, his Heirs and Succeſſors, as hath been ſeen, an expreſs Power of Viſitation, as often, as it ſhould ſeem fit and expedient in the ſame Grant; ſo that he might lawfully have viſited, notwithſtanding this Incorporation, that is, notwithſtanding the Corporation to which it was annext, ſhould always remain a Body Politick or Corporate, without any ſurrender, ſeizure or avoidance of their Charter.

3. From hence it appears that the Viſitation of the Hoſpital, and the avoidance of the Charter, whether right or wrong, are clearly and manifeſtly two diſtinct things, that they have no neceſſary dependence upon, or Connexion with each other, and that a Viſitation of the Hoſpital by the King is legal, though the Charter be ſtanding and in full force.

4. From hence it further follows, though the Charter be reſtored, yet all thoſe Regulations which were made by K. *Charles* II. by a Power derived not only from the Grant of K. *Edward*, but from an Act of Parliament 25 *H.* 8. *c.* 21. are ſtill binding and valid by Virtue of that Act (the ſaid Regulations, as to the matter of them being ſuppoſed to be legal) and that neither the Officers nor Governors that were then diſcarded, can lawfully be reſtored; for this were to ſuppoſe a Viſitor ſuperior to the Supreme, nay, that the delegated Power, which is ſuppoſed to be viſited for its Faults and Failures, may correct and amend that Power to which it is by Law ſubjected, it were to imply, that a legal Act may be illegal and arbitrary at the ſame time; for if it were legal, why ſhould it not be valid? and what an Abſurdity is it in this Caſe, for Subſtitutes and vicarious Agents to correct their Principals of whom they hold, and from whom all their Power and Authority is derived? or would not this in its Conſequence be to invert the nature and the order of Government, and to bring all things into confuſion, if Inferiors ſhall at every turn correct and alter the Eſtabliſhments of a Superior Power when they cannot help confeſſing them to be legal, and when they are made to be ſo by the ſame Law of the Land, by which every Man enjoys his Property, and holds his Eſtate?

It

It remains therefore, that neither the Governors nor Officers ejected by King *Charles* II. can legally be reſtored by a ſubordinate Power, though by the Prince, who is always the ſame, and may be ſometimes ſuppoſed to alter his Mind, for Reaſons beſt known to himſelf, they might be, if it were not for a Cauſe that ſhall be mentioned in its place, which would make the Reſtoration of theſe Men to be materially illegal, by reaſon of ſome Incapacities which they labor under, as ſhall be hereafter ſhewn.

In the mean time we may be aſſured, that the Parliament did never intend, when they gave the King this Power and Right of Viſitation, that it ſhould be be made fruitleſs and vain by the abſurd Encroachments of a Power ſubordinate upon it, for this were to write an Act of Parliament in the Water or the Air, where the Impreſſions vaniſh as ſoon as they are made, as ſuch a croſs, Contradictory, and perverſe Intention, if it could be ſuppoſed poſſible to be imply'd, would at the ſame time perfectly deſtroy what the Letter of the Law had given, and render the ſenſe of all Acts of Parliament, and of all Writings whatſoever, without the help of ſome infalible Interpreter, whom we know not where to find, precarious and uncertain: For let Men ſay or write what they pleaſe, and with never ſo much ſeeming Perſpicuity and Plainneſs, yet who knows at laſt but they may mean and intend the quite contrary to what they ſay, and ſo there is an end of Laws and of Humane Converſation.

5. It goes on to follow whether we will or no, for Conſequences will follow one another in their courſe and order, that all that hath been done ſince the 24*th* day of *January* 168$\frac{8}{9}$, when pretended Orders were iſſued out at *Guild-Hall*, for the reſtoring thoſe Officers that were ejected by the Commiſſion, as the ejected Governors had likewiſe been reſtored by the ſame means not long before, was a manifeſt Uſurpation on both ſides, (as well on that of the pretended Governors, as of the pretended Officers acting under them) upon the Law of the Land, and the known Rights of the Subject, the Commiſſion ſtill continuing, for the Reaſons that have been given, in full force and effect.

6. The Officers that intruded themſelves, or were impoſed upon the Houſe by an illegal Authority, againſt the Conſent and open Proteſtation of thoſe into whoſe Places they came, ought not to be conſidered for their reſpective Services, ſo much as by way of *quantum meruit*; but the whole Salaries from that time to this are due to thoſe that were wrongfully diſpoſſeſſed; and it ſeems but reaſonable, that the Law ſhould allow them ſomewhat of Reparation for the Damage and Detriment they otherwiſe ſuſtained by ſuch an illegal and undue Ejectment.

7. Thoſe Governors, who have been choſen ſince the 24*th* of *January* aforeſaid, or thereabouts, by ſending of Green Staves, as the Cuſtom is, to their reſpective Houſes; from a pretended Clerk at the Inſtigation or Appointment of any pretended Governor or Governors whatſoever, have no power to act under that Name and Notion; their Authority having been ſhewn ſo manifeſtly to rely upon a falſe Ground, and to ſtand upon a Bottom that will not ſupport it.

8. The Officers that were appointed by Commiſſion under the Great Seal, are the only true legal Officers, and have been ſo all this while, becauſe the Effect of that Commiſſion ſtill laſts, which depends upon the King's Power and

Right

Right of Visitation, even when the Commission it self is actually dissolved, tho' it is not denied, but upon the Dissolution of the Commission, and the Restitution of the City Charter, the ordinary Power returns together with it, and that those who were placed by the Commission, may in this Case be displaced after Admonition for Misdemeanor in their respective Charges, of which the ordinary Visitors upon the return of the Charter, and the Dissolution of the said Commission are the immediate Judges; yet so as that there still lies an Appeal to the Supreme.

9. The whole Administration of the Hospital of St. *Thomas Southwark*, from the term aforesaid till this present time, hath been manifestly vitious, defective and void in Law; those that acted by Commission having joined and acted mutually together with those that were ejected by it; by that means disowning the Authority of the Commission, which is the only legal Refuge and Defence they have, and owning that of an unjust and Arbitrary Power, which hath no manner of Color or Pretence to justifie it self, though this being done by them for the good of the House, and in compliance with the present emergent necessity of Affairs, for a laudable and wholesom End; they are not only to be excus'd, but commended for it, and the Acts which they did jointly, being for the most part things of course in the ordinary Management of the Hospital Affairs, which must otherwise have fallen to the ground, to the great disappointment of the Charity and Munificence of our Royal Founder, the said Acts, excepting only the appointment of new Governors, for which there was no necessity, ought to be esteemed, had, and taken for valid to all intents and purposes whatsoever, though they be not so in themselves.

10. Though there were such an inseparable Connexion betwixt the Charter and the Hospital, as is pretended, that the King could not visit or regulate while the Charter stood, which we have proved there was not; and that even the restoring of the said Charter doth not at all affect the Visitation made in the time of K. *Charles* II. yet the Charter being voided, and Judgment entred up against it, that Judgment, though false and erroneous, must continue to be valid till the Error be represented and argued, and the Case set right in a Superior Court, that is to say, the High Court of Parliament; for there is no other in this Case Superior to the Court of King's Bench, so that thus far at least the Commission is justified from the necessity of it, when there was no Charter; and so are all that acted under it, unless we would have no Government, or unless Judgments may be reversed with a wet Finger, without any legal Process, which it is hard to imagine what way it can be done, without overthrowing and confounding all Justice in the World: Thus far therefore we are safe in our Employments, and ought to have our Salaries for the discharge of them, or for but offering to discharge and execute the same, if we be violently hindred from so doing; till the Charter be renewed at least, and the ordinary Jurisdiction of the City of *London* restored, though none of those things were true which we have represented, concerning the King's separate Right to visit by Commission, and the Validity of those Acts that are ordain'd by it, which we humbly conceive to be unanswerable, and so very plain, that the subtilest of our Adversaries can have nothing to say for themselves.

These

These are the natural and unavoidable Consectaries from the Consideration of K. *Edward*'s incorporating and uniting the Hospital and Parish of St *Thomas Southwark* to the Mayor, Commonalty, and Citizens of *London*, as that Incorporation and Union is circumstanc'd with a Reservation in the Grant it self, founded upon an expres Clause in a Parliamentary Act, whereby he is impowered to visit, redress, and regulate from time to time what he shall find amiss in such Places, as to His Princely Wisdom and Justice shall seem meet, and as occasion and necessity shall require. If any of the Observations that have been made from hence shall grate a little too hard upon some Men, who may possibly find themselves concern'd in them, they may thank themselves for putting us upon a Defence, which could not be otherwise managed, but upon such Principles, as will destroy and evacuate their Authority in this House, and turn the intended Expulsion upon themselves, if the Law may be suffered to be the Rule between us, and may be allow'd to decide the Controversie that is now depending; however weare well satisfied, whatever becomes of our particular Interests, which cannot suffer alone, but will more or less affect the Monarchy, and the Church themselves, that we have thus far defended the Prerogative, which is the support of the People, as well as of the Crown, against those, who under specious Pretences, would destroy it, and to shew our Satisfaction in what we have hitherto done, we will pursue the same Design a little further.

It is therefore further to be noted, that K. *Edward* is graciously pleased to tell us in His Royal Grant, not only that he unites, incorporates, *&c.* the Parsonage and Church of St. *Thomas Southwark* to the City of *London*; but that he doth this by his Royal Authority, as the Supreme Head of the Church of *England* and *Ireland*. Now the Supremacy was a Right unalienable, which he could not part with, it being nothing else but a Right to govern all his Subjects of what nature, order or quality soever; and all Estates of Men within this Realm, without any foreign Jurisdiction or Appeal; but this was somewhat more particularly concerned in such Places as were exempt from Episcopal Visitation, and were more immediately dependent upon the Bishop of *Rome* and the Care of these together with the Supremacy was more particularly devolved upon the King, as a Trophy of his Victory over the See of *Rome*, and a Token of his having shaken off that intolerable Yoak, which neither he nor His Fathers were able to bear. But the more particular Reasons why the Visitation of such Places was devolved upon the King, were these that follow.

1. The Regular Fraternities who owned no Subjection to the Bishop of the Diocese, or the Archbishop of the Province wherein they were seated, but paid their immediate Homage, and in all Emergencies made their next Application and Appeal to the See of *Rome* it self, would have disdain'd to come under any Episcopal Visitation, from which they pretended so ancient an Exemption, and an Exemption that had been and is still the cause of many and great Feuds and Animosities in the Church of *Rome* between the Seculars and them: so that the Act of Parliament of the 25 *H.* 8. *c.* 21. being made at a time when though *H.* 8. had actually taken the Supremacy upon himself, yet the Monasteries, Abbies, and other Religious Houses were still in being, and enjoy'd their Possessions and Revenues as be-

fore, it was thought a Matter that might occaſion diſturbance by the Number, the Opulency, and the Intereſt of both Parties contending with each other: if the Regulars had been ſubjected to an Authority, which they would be ſure not to own, and which they mortally hated, beſides that the Opinion which the common People uſually had of their Sanctity, and their long Experience of their Hoſpitality and bounty to the Poor, were things that would have heightned and animated the Diſturbance by engaging a numerous Party on their ſide.

2. Their being immediately ſubjected to the Viſitation of the King, as it was not ſo great a Diminution to the Honor and ancient Privilege of their reſpective Societies; ſo it was the moſt powerful, and by Conſequence the moſt natural way that could be thought of to wean them from hankering after the See of *Rome*, and to fright them into Obedience to the Government and Supremacy of the *Church* of *England*, as it was veſted and eſtabliſhed in the Perſon of *H.* 8. tho' this were but the revival and Recognition of an ancient Right, antecedent to any of the Popiſh Uſurpations, by the known Laws and Uſages of this Realm: And the Regulars not thinking themſelves ſo ſafe in their dependence upon the King, whoſe Intereſt was not ſo much concern'd in their Protection, as they were formerly in their Subjection to the *Pope*, to whoſe Greatneſs they ſeem to be abſolutely neceſſary; and for this Reaſon being jealous of their Prince, and reflecting a Jealouſie back upon themſelves, this might probably be one Reaſon at that time, beſides what Covetouſneſs, Ambition, or the craving Neceſſities of the Publick might afford, of their total and final Extirpation.

3. All Publick Charities, ſuch as all theſe Houſes were, for the Maintenance of Religious Men and Women, were naturally and rightfully veſted in the King, who is the Father and Protector of his Country, and the proper Guardian of ſuch Charities as theſe, to ſee that they be not embezled or profuſely ſquander'd, inſtead of being imploy'd, as was intended and meant, by the Piety and Beneficence of the Founders of the ſame.

Now upon the Diſſolution of Abbies, *&c.* which followed ſhortly after, it muſt be confeſſed, that two of the aforeſaid Reaſons why Places exempt ſhould be under the King's Viſitation, did manifeſtly ceaſe: But then the Third was ſtronger than ever it was before, for it it muſt be confeſs'd, by all Proteſtants eſpecially, to be a greater Charity, and of more publick Uſe, to relieve the Poor, to cure the Sick, to heal the Maim'd and Wounded, than to beſtow the ſame Revenues merely to feed the Ignorance and Superſtition of idle and uſeleſs Men; and ſtill the Letter of the Act of Parliament it ſelf is for the King, for it commits to him the Care of ſuch Places as *be* or *were* exempt before the making of that Act: and it cannot be denied but the Hoſpital of St. *Thomas* is ſuch, and upon that old Exemption its preſent and paſt ever ſince that time is unqueſtionably founded, as this and other ſuch Places being formerly free from Secular or Lay Juriſdiction, and challenging an Exemption from the Civil Magiſtrate, they ſtill maintain their Privilege of Freedom from Arreſts by virtue of that ancient Cuſtom, though the reaſon of that Cuſtom, with the Diſſolution and Extinction of thoſe Regular Societies that formerly inhabited thoſe Places, be antiquated and aboliſh'd.

However

However thus much is acknowledged by the Governors themſelves, that the Place is exempt; nay, it is not only acknowledged, but inſiſted upon, for they will not allow an Epiſcopal Viſitation within the Walls of this Houſe, no not ſo much as in the Chappel it ſelf: Now there being no Place exempt from all manner of Juriſdiction, (beſides, that its Exemption is founded upon that Act of Parliament, which hath been ſo often mentioned) to deny the Biſhops Viſitation is in its own Nature and unavoidable Conſequence to aſſert and recognize the Kings, which is all that we contend for; and ſo much the Governors themſelves muſt grant, or they cannot maintain the Privilege of their Houſe.

When *Hughes*, a Non-conformiſt, was preferred by Governors like himſelf, to the Chaplainſhip of this Houſe, it was upon Suppoſition, that the Place was exempt from the Biſhop's Viſitation, for otherwiſe they dare not have done it, but if it were exempt from the King's too, they might as well have ordered the *Alchoran* or the *Maſs* to be ſaid, or ſung in the Chappel, if they had ſo pleaſed, as either the Extemporary Raptures of their Diſſenting Chaplain, or the ſtated, ſober, and truly Chriſtian Service of the *Church* of *England*, they might have made it if they pleaſed, a Moſch for *Turks*, a Synagogue for *Jews*, or even a Sanctuary for Thieves and Robbers, and all this without any check or control from any but themſelves. They were very ſenſible of the Exemption of the Place, whether they knew the cauſe of it or no, and they abus'd the King's Power committed to them to ſuch Purpoſes, as he himſelf could not have extended it to, for King *Edward* and all his Succeſſors in the Affairs of this Houſe, and other exempted Charities committed to their Charge, have acted under no other notion than that of Succeſſors to or rather rightful Poſſeſſors of the *Popes* Uſurped Power, or in the Language of K. *Edward* himſelf, as the Supreme Heads of the Churches of *England* and *Ireland*, as thoſe Churches were then and have been ever ſince with ſome gradual Regulations eſtabliſhed; but, as ſuch, he could not place in any of his own Chappels a Non-conformiſt from the Eſtabliſh'd Worſhip, it being a Contradiction to be Head of the Church and Defender of the Faith, that is, more particularly of the Eſtabliſh'd Doctrine and Worſhip, and yet to betray and weaken the Church and Crown too at the ſame time, by putting Men into Offices of Truſt, and eſpecially in the *holy things that are hallowed unto the Lord*, that were Enemies to both, nay, it was a Practice that would have tended to the diſinheriſon of the Crown it ſelf, if after the Example of this Place, all others of equal Privilege, had been Nurſeries of Faction, Encouragers of Sects and Religious diſtinctions, (which naturally tend to the Diſſolution of this Monarchy and Church together,) with the Leave and Licence of the Supreme Power; ſo that we will now take it for granted, that the King's Power of Viſitation is on all ſides acknowledged, and that as the Supreme Viſitor, or in other words, as the Supreme Head, Patron, and Protector of the Church of *England*, he could not place either Non-conformiſt Preachers, or Diſſenting Governors or Officers in this Houſe, this not being to defend the *Church* of *England*, or to act in the Capacity of Head of the Church of *England* and *Ireland*, which is the only Ground of the King's Authority in this Houſe; and therefore we may be ſure ſuch were not choſen by any Authority delegated from him, and by Conſequence they were choſen by no Authority at all.

V. Furthermore, if it be ſaid by any that have a mind to raiſe a Duſt where there is no real matter of Controverſie and Diſpute, that it was not the Hoſpital, but only the Pariſh of St. *Thomas Southwark*, which by the Grant of King *Edward* the VI. was appropriated, united, knit and incorporated to the Mayor and Commonalty of the City of *London*, which we have already granted and ſhewn, that it is not material, the ſame thing being equally to be underſtood of both Places; yet all that can be made of this Cavil, when the moſt of it is made that can be, is, that if the Hoſpital be not knit, united and incorporated in ſo cloſe a manner as the Pariſh is, then it hangs more looſe, and is more independent from the City and its Charter, which will be ſo far from obſtructing a Royal Viſitation, that it will but render it more natural and eaſie.

VI. But it may be argued, perhaps, whatever becomes of the Hoſpital it ſelf, that the Pariſh is not under the King's Viſitation, it being given, granted and conſigned over to the Mayor and Commonalty of the City of *London*; *without the Impeachments or hindrance of Us, Our Heirs and Succeſſors, or of any Archbiſhop or Biſhops, Archdeacons, Sheriffs, Eſcheators, Juſtices, Commiſſioners, or any other, &c.* Which words are ſo full and ſo plain, that they may ſeem to exclude a Viſitation; what then becomes of the late Preſentation by the Commiſſioners in the time of the late King *James?* To this it may and ought to be reply'd.

Firſt, That all the Grants which King *Edward* could poſſibly make, could not recall what was paſt, or make that not to have been which really was, the meaning is, that the Viſitation of all Places which were exempt at the making of the Act of the 25 *H.* 8. *c.* 21. or before it was committed to the King, in the nature of a Truſt, the true and faithful diſcharge of which, his People in Parliament expected from him, ſo as he could not wholly lay aſide or neglect it, or give away his Right to viſit and redreſs, as Occaſions or Emergencies ariſing ſhould require, without a Breach of the Faith and Honor of a King, by which he is bound not only to ſee that the Laws be indifferently and impartially executed in all Caſes, but more particularly in thoſe wherein Himſelf is more immediately concern'd as a Truſtee, as it is in this Caſe, though the whole Adminiſtration in a more general Senſe be but one common Truſt repoſed in the King.

Secondly, There was not only a Truſt repoſed in Him by this Act, but a Power for the Execution of that Truſt conferred upon Him, and on his Heirs and Succeſſors for ever; in this Caſe therefore if the King betray his Truſt by neglect, or by a total Devolution of it into other Hands, without any further concerning Himſelf about it; he Sins, and is anſwerable to God's Juſtice for ſo doing; but by a thouſand Grants he can never give away that Power to which his Succeſſors have a Right as well as himſelf, he cannot give away the Rights of the Crown, any more than he can ſell or mortgage his Dominions to a foreign Prince withont the conſent of his People, which he is never like to obtain: ſo that ſuch a Grant as this, let it be expreſſed in words that are never ſo full and comprehenſive, muſt either be interpreted as a void Act in its ſelf, or muſt of neceſſity be underſtood of the ordinary Adminiſtration of, and Preſentation to to the Rectory above-mentioned, with a tacit Reſervation, which muſt be always implied, to the King's extraordinary and viſitatorial Power.

Thirdly,

Thirdly, However close and strict the Union of the Parish of St. *Thomas Southwark*, may be thought to be by the words of the Grant to the Mayor and Commonalty, or to the Corporation of the City of *London*; yet it is not altogether so close as that of the Hospital, in which, notwithstanding the King hath expressly reserved to himself a Power of Visitation, that of the Hospital is an immediate Union, that of the Parish is only a Secundary, and derived from it; and this is the meaning of the word *Appropriation*. King *Edward* saith, *That as Supreme Head of the Church of* England *and* Ireland, *he does appropriate, unite, knit and incorporate the Parsonage and Church of St.* Thomas Southwark, *&c. to the Mayor and Commonalty of the City of* London. Now the meaning of an Appropriation in the Ecclesiastical Law, was laying a Parsonage or Rectory, and its Endowments, to a Religious House, so as the said House became the Parson, and received the Profits and Emoluments arising from the same: Sometimes this Church was supply'd by one constant and ordinary residing Curate, and this was for the most part the rise of Vicarages endowed; sometimes the Monks took their courses among themselves, and then the whole Profits went into the Dividend, and were either equally, or by certain and stated Proportions distributed among them; in this manner was the Parsonage or Rectory, before the Dissolution of Religious Houses appropriated to the Hospital of St. *Thomas Southwark*, and to the Master and others in Possession of the same, the Church being situate within the Site, and the whole Parish contain'd within the Close thereof, as is expressly affirmed in the Grant it self, and *Stow* somewhere saith, *That none were anciently Inhabitants of the said Parish, but such as had a dependence upon the Religious House adjoining*; When therefore it is said, that the Parish is appropriate, *&c.* to the Mayor and Commonalty of the City of *London*: It is meant that it is annexed and incorporated in the same manner that it was formerly to the Hospital adjoining, or it is annex'd not immediately, but by the Mediation and Intervention of that Hospital to which it was formerly appropriated and united; so that the Union of the Hospital was immediate to the Corporation of *London*, that of the Church only Secondary and derivative from it, and therefore if the King hath reserved a Power of Visitation in the Hospital it self, he is much more supposed to do the same in the Parish, or indeed they are both of them unavoidably supposed together, by reason of their Appropriation, Incorporation and Union to each other.

Fourthly, When the late King *James* presented by his Commissioners under the Great Seal to the Parish of St. *Thomas Southwark*, it was upon a Vacancy by Death; and it was at a time when Judgment was entred against the City Charter, by which means it was in Fact discorporated, whatever it were *de jure*, and that Judgment was *de jure* valid, though in Fact it might be erroneous and unlawful, for the Reason that hath already been assigned, so that now there was no other legal Patron but the King; the Power of Presentation by the Discorporation of the City returning naturally to the King, from whence it came; and besides that he hath always a perpetual Right of Presenting if he pleaseth, by virtue of his perpetual Power of Visitation, which implies it, it was in this Case necessary that he should present, unless he would

would ſuffer the Church to be wholly Vacant, and even then the Vacancy would have created a Lapſe, that would have given him a Right after a certain time, though he had had none before. It is not to be queſtioned therefore upon all theſe Conſiderations, but what he did was legal, and that, as ſuch, his Preſentation ought to ſtand even after the City Charter is reſtored; much after the ſame manner that a Guardian may Preſent in the Minority of his Pupil, and that Preſentation ſhall ſtand when his Pupil comes to Age, and ſo may the Guardian of the Spiritualities do many things in the Vacancy of a See, which ſhall be and are of courſe good to all Intents and Purpoſes of Law, when the Biſhop is Enthronized, and the See is full.

VII. And Laſtly, King *Edward* ſays, *And moreover, of Our ample and free Grace, We will, and by theſe Preſents do grant, that of the Iſſues, Rents and Revenues of the ſaid Premiſes, the ſaid Mayor and Commonalty, and Citizens of the ſaid City of* London, *and their Succeſſors, yearly, from time to time, for ever, ſhall find, ſupport and maintain, not only two fit and convenient Miniſters, to celebrate Divine Services, and to adminiſter the Sacraments and Sacramentals, as well to the Poor, and Officers and Miniſters of the ſaid Hoſpital, and Houſe of the Poor, as to the Pariſhioners of the ſaid Pariſh of St.* Thomas *in* Southwark *aforeſaid, but alſo two Women, or Siſters,* &c.

Now here there are two Queſtions that offer themſelves to be asked;

Firſt, What is meant by two fit and convenient Miniſters? And this Queſtion is capable of a twofold Reply: 1. By Fit and Convenient, is not meant great Clerks, but honeſt Men in holy Orders, tolerably qualified for their Employments. 2. When we reflect upon the Words, Fit, and Convenient, we muſt conſider who it is that ſpeaks; it is King *Edward* VI. who gives, grants, orders and enjoins every thing in theſe his Letters Patents, by virtue of that Authority which he had, as the Supreme Head on Earth, of the Churches of *England* and *Ireland*. Fit and Convenient muſt therefore be underſtood, with relation to the Eſtabliſhment of the Church of *England*, as it was then ſetled and conſtituted by the Laws of this Land, in oppoſition to Popery on the one hand, and to an unnatural Schiſm and Separation on the other; though the latter of theſe were hardly known in the time of *Edward* VI, but began more powerfully to ſhew it ſelf in Queen *Elizabeth*'s Days. The King was not the Supreme Head and Defender of a Popiſh Church, in the Senſe that his Father, King *Henry* VIII, was, after he had taken the Supremacy upon himſelf; the Supremacy being then tranſlated to another Perſon, without abandoning the groſs Idolatry and Superſtition of the Church of *Rome*; nor was he the Head of Schiſm and Diſorder, which would have implied him to be *Felo de ſe*, an Enemy to himſelf, and to his own Imperial Dignity and Crown; but he was the Head, the Defender, the Patron, and Protector of that orderly and primitive Eſtabliſhment, which was, and is, the only true Fence and Bulwark againſt both of theſe; and which, by giving to *Ceſar* and to God their due, is a common Friend to Religion, and to Empire; and at the ſame time that it lays the ſureſt Foundations for the Peace and Happineſs of this World, chalks out the ſureſt Way to the Peace of the next. By Fit and Convenient therefore is meant, as one plain Senſe of the Words, a true and hearty Conformiſt to the Doctrine and Diſcipline of the Church of *England*,

England, as it is by Law eſtabliſhed, with no very material Alterations at this diſtance of Time, from what it was formerly, in King *Edward*'s Days, in thoſe early Dawnings of the Reformation: And indeed, it would be very ſtrange, that any Prince ſhould look upon any Chaplain to be fit and convenient in his Houſe, who was not of the Religion which himſelf profeſſed; which would be as much as to ſay, that himſelf was in the wrong, as not being of a fit and convenient Perſuaſion, not fit for the other World, nor convenient for this. King *Edward* being therefore, the Head and Protector of the Legal Eſtabliſhment at that time, Fit and Convenient muſt needs be underſtood, with a due Analogy and Proportion to it.

But *Secondly*, Which is the ſecond Queſtion ariſing from this Clauſe in the Royal Grant, What were thoſe fit and convenient Miniſters to do? Why, the ſame Clauſe goes on to tell us, in theſe Words, *They were to celebrate Divine Services, and to adminiſter the Sacraments and Sacramentals, as well to the Poor, and Officers and Miniſters of the ſaid Hoſpital, and Houſe of the Poor, as to the Pariſhioners of the ſaid Pariſh of St.* Thomas *in* Southwark, *&c.* Were they ſo? Why, then it ſeems they were to be all of a Caſt; like Shepherd, like Flock; like Prieſt, like People: They were to be all Communicants of the Church of *England*, otherwiſe they would make but very improper Auditors of this fit and convenient Miniſter; or rather, they would think themſelves obliged in Conſcience to ſeparate themſelves, and ſtraggle aſide into forbidden Folds of Novelty and Separation.

The Poor and Sick, indeed, are Objects of Pity, and ought to be relieved, notwithſtanding any particular Perſuaſion; but yet, *Cæteris paribus*, if the Grief or Malady be ſuch as calls equally for Help and Succor on both ſides; and if it ſo happen'd, through the Straitneſs of the Houſe, that both cannot be conſidered by it, in order to their Cure, it is more agreeable to the Intention of King *Edward*, and to the plain Conſequences of this fit and convenient Miniſter, in which a fit and convenient Auditory is included, that that Patient ſhould be taken in, who is beſt affected to the Government eſtabliſhed; and a Teſtimonial of his Affection to it, is that which ought to be a Motive in his behalf, and an Inducement to the Governors to relieve him above others, though in other Reſpects equally deſerving the Pity of the Governors, and the Charity of the Houſe: But for Officers and Miniſters there can be no pretence, in ſo great a Choice of fit Perſons to be found, why they ſhould not all be meet Auditors of King *Edward*'s fit and convenient Incumbent of the Place; in the nature of Relatives, as the Logicians ſpeak, they do moſt certainly imply one another; and King *Edward* muſt as much intend to have a conformable Auditory, as a conformable Preacher or Reader in his Chappel; otherwiſe ſuch Preacher or Reader would be in vain. The Reſult of all which is, That it is a Breach of Truſt, and a manifeſt Affront done to the Memory of King *Edward*; it includes a Forfeiture of the Charity it ſelf, by breaking the Conditions, upon which it is beſtowed. To place any Servants or Officers in this Houſe, but what are faithful Members, and Communicants of the Church of *England*, and this without reflecting upon particular Perſons, whom ſo much as in general Terms we would not

not touch, if it could be avoided, does sufficiently justifie the wise, and honest and necessary Regulation made by King *Charles* the Second.

But whereas in this Clause there is mention made of two Ministers, though there be now but one, it is to be considered, 1. That several other Regulations have been made, as there was reason for them, very different from what we now find in the Letters Patents of King *Edward*, wherein there are but two Sisters, one Porter, one Chirurgeon, *&c.* 2. That this is no more than what is actually done, and hath been so of a long time, in St. *Bartholomew*'s Hospital and Parish, though, in the first Institution, they were two distinct places, as will appear by the Grant of King *Henry* VIII. 3. This was but reasonable, in consideration of the Salaries, which are not so good a Competence now as they were at first. 4. The King, who was also the Ordinary and the Patron of the Place, had a Right in all of these Capacities, and much more taken all of them together, to unite these two incompetent Preferments to each other. 5. This depended upon the same Reason, with the Union of small Livings after the Fire of *London*, and of several other Unions by Act of Parliament in the Country. 6. It is to be hoped, that two contiguous Livings are as lawfully united as two that are at above forty Miles distance from each other, which is farther than the Canons allow. Καὶ τοῦτο μὲν δὴ τοῦτο.

FINIS.